IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9316 of 1994

Between:

Kourkonda Nagaraju, S/o. Ramaswamy,
R/o. Veerabhadrapuram, Addateegala(M),
E.G.Dist.

..... PETITIONER

AND

1 The Agent to govt. and the Dist.Collector, E.G.Dist,
Kakinada.
2 The Deputy Collector (Tribal Welfare), E.G.Dist,
Rampachodavaram, E.G.Dist.
3 The Mandal Revenue Officer, Addateegala,
E.G.Dist.
4 Parsika Pakeeru, S/o. Bulladu,Chinnapakalu,(V),
hamlet of Gundolu(V), Addateegala (M),
E.G.Dist.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction one in the nature of Writ of Mandamus declaring the judgment of the 1st respondent in C.M.A.31/91 DT.19-10-1993 confirming the orders of the 2nd respondent in L.T.R.P.No.60/90 dt.19-2-1991 as highly illegal, arbitrary, unjust and void and consequently set aside the same.

Counsel for the Petitioner: MR.DUBA VN BABU

Counsel for the Respondent No.1 to 3: GP FOR REVENUE

The Court made the following:

ORDER:

Heard both sides.

The petitioner herein who claims to be a scheduled tribe, filed this Writ Petition, inter alia, challenging the proceedings initiated under the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 as amended by the A.P. Land Transfer Regulation 1/1970, whereunder in respect of the land, which is purchased by the petitioner under registered Sale Deed Dated 18.5.1959 was sought to be taken over on the ground that the said sale is in violation thereof.

The case of the petitioner is that in fact he holds a certificate of Scheduled Tribe, hence, the question of invoking the said Act does not arise nor the purchase made by him would in any way get affected. In spite of the said objections the primary authority as well as appellate authority both viz. respondents 2 and 1 respectively rejected his contention and hence, this Writ Petition.

The learned counsel appearing for the petitioner submits that in respect of the said certificate hold by him there have been certain proceedings for cancellation thereof and this Court on more than one occasion has remitted the matter back for fresh enquiry and disposal. Recently by orders in W.P. No. 11781 of 1991 dated 21.04.2003, this Court has set aside the orders dated 22.08.1991 canceling the said caste certificate and remitted back to the District Collector for fresh enquiry and disposal. Therefore, no enquiry has been conducted and there is no order canceling the said certificate.

In the said circumstance it is submitted that there being no such doubt in regard to the certificate hold by him, the impugned proceedings are initiated.

Having considered submissions made and also on perusal of material on record it is seen that no doubt the petitioner's claim under certificate was in dispute and on two occasions the certificate was set aside and on approach made by the petitioner to

this Court, the matter was remitted back. Even as on today the matter is under remand for fresh consideration, which means that there is no order, so far, canceling the certificate. As long as the certificate is holding by the petitioner it cannot be said that the petitioner does not belong to scheduled tribe and therefore, the very initiation of proceedings would get vitiated.

In the circumstances, the Writ Petition is allowed. The impugned orders passed by the first respondent in C.M.A. No. 31 of 1991 dated 19.10.1993 and the orders in L.T.R.P. No. 60/90 dated 19.02.1991 passed by the second respondent are set aside and it shall however, open for the respondents to initiate fresh proceedings, if any, in the event of the certificate being cancelled ultimately. No costs.

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02-09-2004

kvrm/skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Second day of September , two thousand and four.

To

1 The Agent to govt. and the Dist.Collector, E.G.Dist, Kakinada.
2 The Deputy Collector (Tribal Welfare), E.G.Dist, Rampachodavaram,E.G.Dist.
3 The Mandal Revenue Officer, Addateegala, E.G.Dist.

4. 2 CC to GP for revenue, High Court Buildings, Hyd. (OUT)

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